

135 FERC ¶ 61,077
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Transmission Technology Solutions, LLC and
Western Grid Development, LLC

Docket No. EL11-8-000

v.

California Independent System Operator Corporation

ORDER DENYING COMPLAINT

(Issued April 27, 2011)

1. On November 29, 2010, pursuant to section 206 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rules of Practice and Procedure,² Transmission Technology Solutions, LLC (TTS) and Western Grid Development, LLC (Western Grid) (together, Complainants) filed a complaint against the California Independent System Operator Corporation (CAISO), alleging that CAISO's decisions and actions with respect to TTS's proposed projects in CAISO's 2008-2009 transmission planning process (TPP) and Western Grid's proposed projects in CAISO's 2009-2010 TPP were unjust, unreasonable, and discriminatory. For the reasons discussed below, we deny the complaint.

I. Background

2. CAISO's TPP is governed by CAISO's tariff (CAISO Tariff) and Business Practices Manual for the Transmission Planning Process (BPM) with the purpose of developing a CAISO Grid Transmission Plan each planning cycle.³ The TPP consisted of overlapping cycles in 2008-2009 and 2009-2010, each with three stages. Stage 1 of the TPP involves development of the study plan and planning assumptions used in the TPP. During Stage 2 of the TPP, CAISO and/or third parties perform technical studies to

¹ 16 U.S.C. § 825e (2006).

² 18 C.F.R. § 385.206 (2010).

³ See CAISO Tariff, Section 24.

identify system needs, pursuant to which participating transmission owners (PTO) and other market participants propose economic planning studies and reliability transmission upgrades or additions, or other resources, during the “Request Window” period.⁴ Stage 3 of the TPP involves evaluation by CAISO of the solutions submitted during the Request Window that meet certain project screening criteria and development of a CAISO Grid Transmission Plan to be presented to the CAISO Governing Board for approval.⁵

3. Complainants state that they each sought approval in CAISO’s TPP of the installation, ownership, and operation of smart grid devices to comply with future transmission system needs as required by the North American Reliability Corporation (NERC) reliability standards.⁶

4. In sum, Complainants argue that CAISO violated FPA section 205(b)⁷ by failing to follow the requirements of the CAISO Tariff and BPM in its comparative evaluation of projects proposed by TTS and Western Grid to the competing projects proposed by the incumbent PTO, in the 2008-2009 and 2009-2010 TPP. Complainants argue that, by failing to follow the CAISO Tariff and BPM requirements, CAISO unfairly granted an undue preference to projects proposed by the incumbent PTO. Complainants contend that CAISO’s actions reflect a pattern of discriminatory behavior against non-incumbent independent transmission developers. In addition, Complainants request that, in order to remedy CAISO’s unfair actions, CAISO be required to conduct proceedings to reevaluate

⁴ Each cycle begins with a Request Window, which opens between August 15 and November 30 of each year.

⁵ We note that after the complaint was filed in this proceeding, the Commission issued an order conditionally accepting CAISO’s revised transmission planning process in Docket Nos. ER10-1401-000, ER10-2191-000, and EL10-76-000. *See Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010) (RTPP Order). The revisions and conditional acceptance thereof in the RTPP Order modified the relevant CAISO Tariff provisions of the TPP. This order will address the then-current CAISO Tariff and BPM sections in effect at the time of CAISO’s alleged violations during the 2008-2009 and 2009-2010 planning cycles, i.e., California Independent System Operator Corporation, FERC Electric Tariff, Fourth Replacement Volume No. 1 and Business Practice Manual for the Transmission Planning Process, Order 890 Compliance, Version 6.0.

⁶ *See* Reliability Standard TPL-002-0a (System Performance Following Loss of a Single Bulk Electric System). Specifically under TPL-002-0a, CAISO is required to simulate the loss of a single element (Category B contingency) or multiple elements (Category C contingency) within its transmission system to ensure that its system is prepared and upgraded, as necessary, to continue to meet the required performance standards under those contingencies.

⁷ 16 U.S.C. § 824d(b) (2006).

the Complainants' proposed projects using only the provisions of the CAISO Tariff and BPM that were in effect when the projects were originally considered.

A. TTS Projects

5. Complainants state that, in December 2008, TTS submitted applications for 11 Flexible AC Transmission System (FACTS) devices to provide voltage support and/or reactive power to transmission facilities (TTS Projects)⁸ through the 2008 Request Window for the 2009 CAISO Grid Transmission Plan. Complainants state that nine of the 11 projects were designed to provide interim solutions, on the most cost-effective basis, for NERC reliability violations previously identified in the 2008-2009 TPP.⁹ Complainants state that, as part of its submission, TTS requested that CAISO direct the affected PTO to enter into good faith negotiations to enter into service contracts with respect to the TTS Projects.

6. According to Complainants, in March 2009, CAISO posted, and later presented to the CAISO Governing Board, a final CAISO Grid Transmission Plan (2009 Final Transmission Plan), which found that additional information or evaluation was needed before ten of the 11 TTS Projects could be assessed.¹⁰ In June 2009, Complainants continue, CAISO posted an amendment to the 2009 Final Transmission Plan (Amended 2009 Transmission Plan), which concluded that analysis of the PTOs' solutions and ten TTS Projects was complete and that (1) the PTOs' long-term projects could move forward to implementation,¹¹ (2) eight of the TTS Projects represented interim solutions to system reliability needs before the relevant PTO long-term solutions would be

⁸ Complainants explain that the TTS Projects involved static VAR compensator (SVC) technology, which can be used for power factor correction, flicker reduction, and steady-state voltage control. Complaint at 6.

⁹ For most of the identified criteria violations, the relevant incumbent PTO also submitted long-term mitigation solutions in the 2008 Request Window. Complainants describe the TTS Projects as interim solutions until the long-term solutions were put in place. *See id.* at 30; *see also* Complaint, Attachment F, Amendment to the 2009 Transmission Plan, at 5 (Amended 2009 Transmission Plan).

¹⁰ CAISO denied the 11th TTS Project because it found that there were no identified NERC reliability violations. Amended 2009 Transmission Plan at 2, n.21.

¹¹ *Id.* at 5.

implemented, and (3) in some instances “the TTS Projects presented the only mitigation solution proposed for [CAISO]-identified near term reliability violations.”¹²

7. Complainants state that after the Amended 2009 Transmission Plan was posted, their efforts to negotiate service contracts for the TTS Projects with Pacific Gas and Electric Company (PG&E) were unsuccessful. They note that, although they requested CAISO to direct PG&E to enter into good faith negotiations for service agreement arrangements for the installation of the TTS Projects at the sites identified in the Amended 2009 Transmission Plan, discussions to do so proved unfruitful. Further, Complainants allege that PG&E and CAISO conducted discussions outside of the TPP framework, resulting in PG&E revising its plans and strategically submitting information to CAISO, indicating that PG&E had tailored its operations to address the known reliability violations (i.e., by creating “operating procedures”) and/or it had recharacterized the reliability violations as mere “problems” that it had resolved.¹³ Thus, Complainants state that, in lieu of accepting the TTS Projects to resolve the reliability violations, CAISO decided to implement these operating procedures that require CAISO to drop load to selected customers to avoid reliability standard violations. Complainants argue that CAISO implemented this plan without obtaining the CAISO Governing Board’s approval or properly notifying the affected parties within the TPP framework.

8. Complainants state that in November 2009, TTS applied to CAISO to become a PTO in order to place the TTS Projects in its own PTO rate base. They explain that CAISO denied TTS’s request to become a PTO and stated that none of the TTS Projects had been approved through the TPP. According to Complainants, CAISO stated that TTS could never become a PTO “until... it has facilities in service over which the [CAISO] has accepted operational control. As the facilities that TTS proposes to turn over to the [CAISO’s] operational control will not be approved through [CAISO’s] TPP, the [CAISO] will never be able to accept operational control of them.”¹⁴ TTS later requested reconsideration of this decision, but according to Complainants, CAISO rejected TTS’s request, stating that CAISO’s consideration of the TTS proposals had concluded in January 2009 and the TTS Projects were no longer pending consideration.

9. In sum, Complainants allege that, after originally acknowledging the merits of several of TTS’s interim solutions, CAISO used information and assumptions from

¹² Complaint at 7 (citing Amended 2009 Transmission Plan at 5). According to Complainants, CAISO did not indicate that the PTOs’ competing long term alternative projects provided any *near term* mitigation of the identified NERC reliability violations. *Id.*

¹³ *Id.* at 7-8.

¹⁴ *Id.* at 8.

outside of the TPP framework and, principally on that basis, determined that none of the TTS Projects would be accepted. Complainants argue that CAISO then wrongfully determined that TTS had no basis for applying for PTO status, since it did not at the time have an approved project as part of the TPP. Complainants assert that CAISO's actions were discriminatory and violated FPA section 205, the CAISO Tariff, the Transmission Control Agreement (TCA), the BPM, and Order No. 890.¹⁵

B. Western Grid Projects

10. Complainants state that during the 2009 Request Window for the 2010 Transmission Plan, Western Grid submitted eight energy storage device projects (Western Grid Projects) designed to address specific existing and forecasted reliability violations that had been posted by CAISO during the 2009 Request Window. Complainants state that the Western Grid Projects consisted of advanced transmission technology that: (1) have a smaller adverse environmental impact than traditional transmission solutions; (2) can provide efficient transmission solutions for existing reliability problems; and (3) can be incorporated into the CAISO transmission system as components of smart grid technology applications.¹⁶ According to Complainants, the Western Grid Projects were either submitted as alternative solutions to the incumbent PTOs' proposals or were proposed to resolve reliability problems for which no alternative solutions had then been identified.

11. In February 2010, CAISO posted a draft Transmission Plan that rejected all of the Western Grid Projects. Complainants state that Western Grid submitted comments contesting the rejections in a letter to CAISO in early March 2010 on the grounds that CAISO's analysis was technically flawed, not supported by record evidence, arbitrary and capricious, and contrary to Order No. 890. Later that month and into April 2010, CAISO posted a second and third draft of its Transmission Plan and, eventually, a final Transmission Plan for 2010 (2010 Final Transmission Plan), which all rejected the

¹⁵ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on reh'g*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

¹⁶ On January 21, 2010, the Commission issued an order finding that Western Grid's energy storage devices are wholesale transmission facilities, and granted certain requested incentive rate treatments. The order conditioned the incentives on acceptance of the Western Grid Projects in the CAISO TPP. *See Western Grid Development, LLC*, 130 FERC ¶ 61,056, *order on reh'g*, 133 FERC ¶ 61,029 (2010) (Western Grid Order).

Western Grid Projects, as well as all other proposed transmission projects that had been submitted by non-incumbent independent transmission developers.

12. Complainants allege that Western Grid's earlier comments in response to the draft Transmission Plan were not addressed in the 2010 Final Transmission Plan, noting that CAISO responded to Western Grid's comments only after the 2010 Final Transmission Plan had been posted. Complainants state that it became clear from CAISO's response that CAISO improperly relied on information submitted outside of the TPP, which was not previously available to all participants in the unified planning assumptions, in violation of the CAISO Tariff.¹⁷ According to Complainants, CAISO planned to implement operating procedures that require CAISO to drop load to selected customers in order to avoid reliability standard violations, rather than approve the Western Grid Projects. Complainants argue that CAISO implemented this plan without seeking approval from the CAISO Governing Board or properly notifying the affected parties, as required in the BPM.

C. Complaint

13. In the complaint, Complainants allege that CAISO violated the requirements of the CAISO Tariff and BPM in evaluating Complainants' projects in the 2008-2009 and 2009-2010 TPP, thus granting an undue preference to competing projects proposed by the incumbent PTO. Complainants state that the alleged tariff and BPM violations fall into the following categories: (1) CAISO erroneously rejected TTS's application to become a PTO; (2) CAISO failed to adhere to applicable Reliability Criteria and Planning Standards; (3) CAISO relied on information outside of the unified planning assumptions and study plan; (4) CAISO failed to select the least-cost alternative when evaluating the TTS Projects and the Western Grid Projects and their competing projects; (5) CAISO ignored the TPP by approving three PG&E projects in the 2009 Transmission Plan, without considering TTS's least-cost alternatives; (6) the Amended 2009 Transmission Plan was finalized by CAISO without following the procedure required under the CAISO Tariff and BPM; and (7) CAISO erroneously rejected a proposed Western Grid Project without providing evidence of its analysis. Complainants also argue that the Commission should facilitate the implementation of related Federal energy laws and policies and Commission precedent in granting Complainants its proposed remedy for CAISO's violations.

II. Notice of Filing and Responsive Pleadings

14. Notice of Complainants' complaint was published in the *Federal Register*, 75 Fed. Reg. 76,726 (2010), with CAISO's answer, interventions, and protests due on or before

¹⁷ Complaint at 10.

December 13, 2010. The Commission subsequently granted CAISO's unopposed motion for an extension to file its answer by January 10, 2011.

15. CAISO filed an answer to the complaint. The California Public Utilities Commission filed a notice of intervention. Timely motions to intervene were filed by: Independent Energy Producers Association; LS Power Transmission, LLC; California Municipal Utilities Association; Transmission Agency of Northern California; Modesto Irrigation District; the City of Redding, California; and the City of Santa Clara, California and the M-S-R Public Power Agency. Timely motions to intervene and comments were filed by: Clear Power, LLC (Clear Power); California Department of Water Resources State Water Project (SWP); Northern California Power Agency (NCPA); and Southern California Edison Company (SoCal Edison). Timely motions to intervene and protests were filed by: PG&E, San Diego Gas & Electric Company (SDG&E); and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities). Complainants filed an answer to CAISO's answer.

III. Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept Complainants' answer to CAISO's answer and will, therefore, reject it.

B. TTS's Application for PTO Status

1. Complaint

18. Complainants allege that CAISO's rejection of TTS's application to become a PTO violated the CAISO Tariff, the TCA, and Order No. 890. Specifically, Complainants assert that CAISO violated section 4.3.1.1 of the CAISO Tariff, which states that CAISO may receive applications from entities to become new PTOs. Complainants argue that, pursuant to section 2.2.3 of the TCA, which specifies five criteria that CAISO considers in evaluating an application for a party to become a PTO, there is no requirement that the proposed facilities must already have been constructed,

included in the annual Transmission Plan, or operated by a PTO within a PTO service territory.¹⁸

19. Complainants argue that TTS's PTO application should have been considered by CAISO under the explicit requirements of section 2.2.3 of the TCA,¹⁹ whether or not its proposed projects had been approved in the TPP. They state that CAISO's erroneous interpretation of the CAISO Tariff and TCA creates a "Catch-22" situation, making it impossible for a non-incumbent independent transmission developer, such as TTS, to ever achieve PTO status. Complainants argue that unless TTS was already a PTO, TTS could never own a reliability project that it proposed, even though it had invested substantial time and resources in researching, documenting, and proposing such upgrades. Complainants believe that this result is discriminatory and presents a significant potential impediment to many types of smart grid reliability innovations.

2. CAISO's Answer

20. First, CAISO points out that, under the CAISO Tariff, only PTOs *with a service territory* are authorized (and required) to finance and construct reliability projects needed within their service territory.²⁰ CAISO therefore argues that TTS and Western Grid could not have become the project sponsors of their proposed reliability projects, even if their projects had been the most prudent options. Accordingly, CAISO contends that while any market participant *may* propose a reliability project, that does not mean that developers without a service territory will automatically become the project owner if their solution is the most prudent reliability project.

¹⁸ Complainants also point to language in Order No. 890, which found that customers and stakeholders must not be excluded from the development of PTO-sponsored projects and PTO projects should not be incorporated into the CAISO plan using criteria and standards that are different from those used to assess alternative projects. Complaint at 18 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 594).

¹⁹ Complainants argue that TTS's PTO application included a description of the TTS Projects; stated TTS's intent to place them under CAISO's operational control; and provided all additional information necessary to meet the other application requirements under the TCA. *Id.* at 18.

²⁰ Section 24.1.2 of CAISO Tariff states that, "[t]he[PTO] with a PTO Service Territory in which the transmission upgrade or addition deemed needed under this Section 24.1.2 of this Appendix EE is to be located shall be the Project Sponsor, with the responsibility to construct, own and finance, and maintain such transmission upgrade or addition."

21. Next, CAISO argues that it lacks authority to direct PG&E to negotiate with TTS for service contracts on the TTS Projects. According to CAISO, even if the TTS Projects had been the most prudent and, accordingly, were chosen, PG&E would not have been obligated to enter into good faith negotiations with TTS to build those projects. Instead, PG&E may choose, in this instance, to implement the solution itself or could decide to hire a different third-party to implement the solution if it is more cost-effective. Furthermore, CAISO disagrees that the TTS Projects should have been accepted simply because they were described as “interim solutions” in the Amended 2009 Transmission Plan. CAISO argues that although the Amended 2009 Transmission Plan noted that the TTS Projects could potentially address short-term reliability needs, it also stated that these projects had not been approved.²¹ Accordingly, CAISO argues it was not in a position to instruct PG&E to enter into a specific contract with a specific vendor.²²

22. CAISO argues that TTS’s application to become a PTO was rejected in accordance with section 4.3.1 of the CAISO Tariff, which requires that “[n]ew [PTOs] will be required to turn over Operational Control of all facilities and Entitlements [to CAISO].” CAISO states that TTS does not have facilities to turn over to CAISO control, emphasizing that at the time of TTS’s application, TTS did not have a single project that was being considered in the TPP.²³ CAISO therefore argues that TTS did not meet the requirement to become a PTO that obligates applicants to transfer control of its facilities to CAISO,²⁴ and, accordingly, TTS’s application was properly rejected.²⁵

23. CAISO disagrees that the tariff and TCA provisions create a “Catch-22” situation,²⁶ (i.e., the argument that because it is not a PTO, it cannot own a reliability project, and because it does not own a reliability project, it cannot become a PTO).

²¹ CAISO asserts that the Amended 2009 Transmission Plan clearly stated that PG&E’s competing long-term projects were the most prudent and could move forward with implementation. In contrast, the Amended 2009 Transmission Plan did not make similar statements regarding the TTS Projects. CAISO Answer at 24-28.

²² *Id.* at 21-22.

²³ CAISO further argues that, even if the TTS Projects had been approved in the TPP, TTS would not qualify for PTO status because the applicable PTO with a PTO service territory would be responsible for building and owning such reliability projects. *Id.* at 12.

²⁴ Section 4.1 of the TCA states that one obligation of a PTO is that it turn over to CAISO operational control of its “transmission lines and associated facilities forming part of the transmission network that it owns or to which it has entitlements.” *Id.* at 14.

²⁵ *Id.* at 13-14.

²⁶ *Id.* at 18.

CAISO argues that this logic is fundamentally flawed because TTS could not own a reliability project even if it were a PTO since it does not have a service territory. For that reason, CAISO argues that TTS would remain ineligible to construct reliability projects under the CAISO Tariff and TCA, unless it was hired as a contractor by a PTO with a service territory.

24. Further, CAISO argues that the Complainants are incorrect in stating that non-incumbent independent transmission developers cannot become PTOs, noting that three such developers are PTOs (i.e., Trans-Elect, Trans Bay Cable, and Startrans). CAISO contends that other avenues are available under the CAISO Tariff and TCA for non-incumbent independent transmission developers to become PTOs. For example, such a developer can obtain approval of an economic project through the TPP (or under the current CAISO Tariff pursuant to the RTPP Order, an economic or policy-driven project). Such a developer could also independently obtain regulatory approvals to build the project and apply for PTO status after the project is complete and operational control of the facilities is turned over to CAISO. CAISO therefore argues that, contrary to the Complainants' assertions, non-incumbent independent transmission developers can become PTOs.²⁷

25. Finally, CAISO argues that denying TTS's application for PTO status will not impede innovation and smart grid development. CAISO contends that the purpose of assessing reliability projects is to identify the project that will best meet the reliability need in a cost-effective manner, whether these are transmission upgrades or additions, or non-transmission alternatives. CAISO argues that the CAISO Tariff requires it only to approve the best solution. CAISO contends that, to do this, it evaluates all feasible alternatives to determine what the best solution is, despite who proposed it. CAISO explains that once the most prudent proposal is identified, the PTO is obligated to build that solution, whether it is a smart grid solution, another alternative, or a traditional upgrade or addition. However, CAISO contends that if a smart grid reliability solution is proposed by a developer and found to be the most prudent solution, the PTO in charge of the service territory would be required to build that specific solution itself, hire the solution developer, or hire a different third-party to implement the solution.

3. Comments and Protests

26. SDG&E agrees with CAISO that PTOs retain the obligation to construct, own, finance, and operate reliability-driven projects and that CAISO does not have the authority to direct PTOs to execute service agreements with third parties. SDG&E argues that, without such understanding, PTOs would be forced to leave their reliability and

²⁷ *Id.* at 18-19.

regulatory responsibilities in the hand of third parties while still facing all enforcement risks and liabilities.

27. SDG&E also objects to Complainants' argument that CAISO treated Complainants unfairly and gave preferential treatment to the PTOs. SDG&E argues that Complainants' characterization of the TTS Projects and Western Grid Projects as "reliability-driven projects" takes away their right to insist that they should construct, own, or operate those projects, as Complainants were well aware that the CAISO Tariff requires the PTO with the applicable service territory to construct and own such projects. Accordingly, SDG&E asserts that Complainants' claims of undue discrimination are baseless.²⁸

4. Commission Determination

28. The Commission finds that CAISO properly adhered to the requirements of the CAISO Tariff in rejecting TTS's PTO application. TTS did not meet the requirement under CAISO Tariff section 4.3.1 or TCA section 2.2.3 that new PTOs must turn over operational control of their facilities to CAISO. TTS's proposed facilities were not approved or under pending consideration in the TPP. Accordingly, without the ability to transfer operational control of its proposed facilities, TTS did not meet the requirements to become a PTO under the CAISO Tariff or TCA. Therefore, CAISO had no basis to approve TTS's application to become a PTO.

29. We also disagree with TTS's assertion that the CAISO Tariff and TCA eliminate the possibility that non-incumbent independent transmission developers may achieve PTO status. CAISO has in the past granted PTO applications for such independent developers that meet all the CAISO Tariff and TCA guidelines.²⁹ CAISO also explains in its answer that other avenues are available under the CAISO Tariff and TCA for an independent developer to become a PTO.³⁰

30. We note that, although any market participant can propose a reliability project, the CAISO Tariff only authorizes PTOs with distribution service territories to finance, construct, and own reliability projects. The Commission previously found this provision

²⁸ SDG&E Comments at 8.

²⁹ See, e.g., *Trans Bay Cable*, 129 FERC ¶ 61,225, at Ordering Paragraph (A) (2009); *Trans-Elect NTD Path 14, LLC*, 109 FERC ¶ 61,249, at Ordering Paragraph (A) (2004), *reh'g denied* 111 FERC ¶ 61,140 (2005).

³⁰ See discussion *supra* P 24.

to be just and reasonable.³¹ Complainants have not persuaded us, based on the record in this proceeding, that this result or CAISO's actions with respect to TTS's PTO application are discriminatory or contrary to Order No. 890.³²

C. CAISO's Adherence to Reliability Criteria and Planning Standards

1. Complaint

31. Complainants argue that, during its evaluation of the TTS and Western Grid Projects, CAISO violated section 24.1.2 of the CAISO Tariff, which requires CAISO to follow all Applicable Reliability Criteria³³ and CAISO Planning Standards³⁴ in its assessment of reliability projects.³⁵

32. According to Complainants, the Commission has previously found that, "the transmission planning Reliability Standard should not allow an entity to plan for the loss of non-consequential load in the event of a single contingency."³⁶ Further, Complainants contend that the CAISO Planning Standards explain that involuntary load interruptions are not an acceptable consequence for Category B contingencies, unless the CAISO

³¹ *Cal. Indep. Sys. Operator, Corp.*, 127 FERC ¶ 61,172, at P 83 (2009). The Commission also recently reaffirmed that this provision is just and reasonable. *See* RTPP Order, 133 FERC ¶ 61,224 at P 59, 62.

³² The Commission is considering in Docket No. RM10-23-000 whether provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to facilities that are included in regional transmission plans are unjust, unreasonable or unduly discriminatory. *See Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Notice of Proposed Rulemaking, 75 FR 37884 (June 30, 2010), FERC Stats. & Regs. ¶ 32,660 (2010). CAISO, like all jurisdictional entities, will be subject to any future rulemakings.

³³ Applicable Reliability Criteria are the Reliability Standards and Reliability Criteria established by NERC and the Western Electricity Coordinating Council (WECC) and Local Reliability Criteria. CAISO Tariff, Appendix A.

³⁴ CAISO Planning Standards specify the reliability criteria that CAISO will use to plan transmission facilities within its grid and to maintain and improve system reliability. These standards address specifics not covered in the NERC and WECC planning standards. *Id.*

³⁵ Complaint at 21.

³⁶ *Id.* at 14-15 (citing *Mandatory Reliability Standards for the Bulk Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 1794 (2010)).

Governing Board decides that the alternative capital project is not cost-effective.³⁷ Complainants argue that CAISO allowed PG&E to plan for the loss of non-consequential load in the event of a single contingency rather than approve the TTS Projects and Western Grid Projects, without determining that the TTS Projects were not cost-effective.³⁸

33. In addition, Complainants assert that if a PTO plans to shed load to resolve a reliability issue, then the CAISO Planning Standards require: (1) documentation of the amount of interruptible load, the duration of the load shedding, and the frequency of load shedding; (2) approval from the CAISO Governing Board; and (3) a notification period to stakeholders to provide an opportunity to respond. Complainants argue that for several of the TTS Projects³⁹ and Western Grid Projects,⁴⁰ CAISO neither provided the required documentation, nor notified the CAISO Governing Board or affected stakeholders before it approved PG&E's load shedding plans. Thus, Complainants argue that these actions violated the CAISO Tariff.

³⁷ Complainants argue that, even in such a situation, the planned load interruptions must be limited to radial and local network customers. Complaint, Attachment A, Affidavit of Jenny Mueller in Support of TTS's and Western Grid's Complaint, at P 28-29 (Mueller Affidavit). We note that the CAISO Planning Standards allow for planned load interruptions for Category B disturbances as long as it only affects radial and local network customers. In addition, if CAISO chooses to interrupt load rather than build a new project, these cases must be presented to the CAISO Governing Board for a determination as to whether or not the projects should be constructed. *See* CAISO Planning Standards, section II.4.A (New Transmission versus Involuntary Load Interruption Standard).

³⁸ *See* Mueller Affidavit at P 28-30.

³⁹ Complainants point to statements made by PG&E that PG&E would drop load to address near-term reliability violations in the Maple Creek area, Old River and Kern area, Watsonville area, and Santa Cruz area, which CAISO accepted instead of approving the respective interim TTS Project. Complainants also state that they reasonably assume that SoCal Edison would be dropping load (or, alternatively, CAISO would not be meeting reliability criteria) in the Antelope-Bailey area because CAISO did not approve the TTS Project (i.e., Cal Cement Interim Solution) to address the interim reliability violation. *See* Mueller Affidavit at P 34-49, 54-62.

⁴⁰ Complainants state that PG&E's system configuration change in the Coppermine area, operating procedures in the Weedpatch and Tulucay areas, and system configuration in the Potrero area would all result in load shedding. *See* Mueller Affidavit at P 86-107, 113-118.

2. CAISO's Answer

34. CAISO argues that it did not violate the CAISO Planning Standards by not obtaining approval from the CAISO Governing Board for the *temporary* load dropping schemes implemented by PG&E. CAISO states that section II.4.A of the CAISO Planning Standards states that when reliability concerns resulting from a Category B contingency exist, an involuntary load dropping procedure is the preferred approach if it is more beneficial to ratepayers than a long-term facilities-based solution. However, CAISO argues that contrary to Complainants' assertion, PG&E did not propose to interrupt load as an alternative to a facilities-based *permanent* solution to address any of the identified reliability concerns.⁴¹

35. With respect to the TTS Projects, CAISO contends that for each area where TTS submitted a reliability proposal (with the exception of the Trinity Area where the load was leaving CAISO's balancing area), PG&E and SoCal Edison proposed more cost-effective solutions that involved constructing upgrades to address the reliability performance concerns on a permanent basis. CAISO adds that none of these solutions involved shedding load permanently. Thus, CAISO argues that since it did not approve long-term planning solutions that involved load interruptions, it had no reason to notify stakeholders and seek approval from the CAISO Governing Board, as argued by the Complainants.⁴²

36. In response to Complainants' arguments about alleged load shedding to address reliability violations in the Maple Creek and Antelope Bailey areas, CAISO argues that the operating procedures adopted in those areas do not result in load shedding. With respect to the Maple Creek area, CAISO states that there was only an eight-month gap between the commercial in-service date for the TTS Project and the PG&E permanent project. CAISO explains that to address the reliability concerns during the eight-month gap, PG&E planned to disable the automatic switching of Maple Creek circuit breakers and related switch to prevent low voltage conditions during high peak demand periods, which CAISO states is not load shedding, but is an operating procedure designed to maintain the day-to-day reliability of the grid. Similarly, regarding the Antelope-Bailey area of the SoCal Edison service territory, CAISO states that it approved a long-term project proposed by SoCal Edison and determined that, to mitigate the reliability

⁴¹ CAISO Answer at 42.

⁴² CAISO notes that CAISO Planning Standards are out of synch with the provisions of the CAISO Tariff governing the TPP in compliance with Order No. 890 and the RTPP Order. It states that under the current CAISO Tariff, stakeholders now have more opportunity to review input regarding proposals and the underlying study assumptions. CAISO commits to reviewing the Planning Standards for needed updates in 2011. *Id.* at 44-45.

concerns until the SoCal Edison long-term solution was in place, it was more cost-effective to implement certain operating procedures than proceed with TTS's proposal.⁴³ Specifically, CAISO explains that the operating procedures in these areas would curtail the output of generation resources in the area to mitigate potential overloads and voltage concerns that were identified, *without dropping the load*.

37. With respect to the Western Grid Projects, CAISO argues that PG&E's interim solutions in the Coppermine, Weedpatch, Tulucay, and Potrero areas did not involve load shedding. Specifically, CAISO notes that Western Grid's Coppermine energy storage project is not needed because the reliability problem in the area reported in the 2009 Amended Transmission Plan was resolved by a maintenance project completed by PG&E 14 months before Western Grid proposed its solution. CAISO disputes Complainants' claim that if a reliability concern arises here in the future, CAISO plans to solve it by shedding load. Further, CAISO argues that PG&E did not propose to shed load in lieu of building a transmission project to address a possible Category B thermal overload on the Weedpatch transmission line. According to CAISO, PG&E determined that opening the Weedpatch breaker would prevent overloads on the line and effectively resolve the possible reliability concerns.

38. In addition, CAISO argues that Western Grid's proposed Tulucay energy storage project was not needed to address a critical contingency identified in the 2010 local capacity technical study because the CAISO Governing Board had previously approved a project that would address that same concern. CAISO disputes Western Grid's argument that, during the interim period that the project is being built, CAISO intends to drop load to certain customers. CAISO explains that procurement of sufficient local capacity and an operating procedure to open a parallel line will adequately prevent any overloads in the area. Moreover, with respect to Western Grid's proposed Potrero energy storage project, CAISO states that it reviewed updated line ratings provided by PG&E and determined that there are no overloads that need to be addressed by a new transmission project or generation, including Western Grid's project and a project submitted by PG&E. Accordingly, CAISO argues that it did not change system configurations or shed load.

3. Comments and Protests

39. SoCal Edison objects to Complainants' assumption that, because CAISO did not approve the TTS Project in the Antelope-Bailey area, CAISO would be forced to either

⁴³ CAISO notes that although SoCal Edison's solution was the best long-term solution, CAISO identified TTS's proposal as a possible short-term mitigation solution for the 14-15 month gap until SoCal Edison's long-term solution was operational. *Id.* at P 57-58.

violate reliability criteria or drop load. SoCal Edison explains that it instituted an interim solution to address these voltage concerns on March 13, 2009, which will remain in place until its comprehensive permanent solution becomes operational.⁴⁴ SoCal Edison explains that the interim operating procedure prevents voltage concerns by curtailing wind generation when necessary during light load and high wind generation conditions.⁴⁵

40. PG&E contends that the use of operating procedures as temporary solutions is consistent with NERC Reliability Standards and CAISO Planning Standards.⁴⁶

41. SWP asks that the Commission take action to ensure transparency in transmission planning, particularly in the event of load interruptions. SWP points to section 24.8.1 of the CAISO Tariff, which requires PTOs to provide CAISO with information detailing the amount, duration, and frequency of load interruptions.⁴⁷ SWP contends that the basic principles of grid reliability entitle load to an expectation of firm service unless given express consent. Therefore, SWP supports aspects of the complaint that confirm CAISO's obligation to notify stakeholders of any intent to drop load in lieu of other transmission solutions.⁴⁸ SWP adds that transparency in CAISO's TPP ensures the appropriate use of load-based resources.⁴⁹

4. Commission Determination

42. We find that CAISO acted within the provisions of its Applicable Reliability Criteria and CAISO Planning Standards, and that Complainants' assertions regarding load shedding are without merit. The involuntary load interruption planning standard that Complainants base their argument on contemplates choosing between new transmission and involuntary load interruption. However, an important distinction here is that CAISO did not plan to interrupt load as a long-term alternative solution instead of building a new transmission project. In fact, CAISO selected long-term mitigation projects and required the incumbent utilities to build those projects. In addition, while constructing the approved long-term projects, PG&E properly planned to implement *temporary* operating

⁴⁴ SoCal Edison Comments at 2.

⁴⁵ *Id.*

⁴⁶ PG&E Protest at 7.

⁴⁷ SWP Comments at 3.

⁴⁸ *Id.* at 1-2.

⁴⁹ *Id.* at 4.

procedures, which, as explained below, did not involve load shedding as asserted by Complainants.⁵⁰

43. As explained by CAISO, in the cases where the Complainants allege that PG&E planned to shed load, instead of CAISO approving TTS's projects, PG&E will temporarily disable automatic switching that would otherwise try to recover load that has already been dropped as part of the contingency. This procedure does not constitute permanent load shedding because any load that is lost in this scenario is part of the contingency and not a result of manually shedding load. In addition, in the cases where the Complainants allege that PG&E plans to shed load instead of CAISO approving Western Grid's projects, PG&E will actually open a 230 kV transmission line following the loss of a parallel 230 kV transmission line. This short-term solution does not constitute load shedding because the operating procedure will only shift power flow in the area and will not result in loss of load. Further, we agree with CAISO that since it did not approve long-term planning solutions that involved load interruptions, it was not required to seek approval from the CAISO Governing Board or provide notification to stakeholders.

44. As discussed in more detail in Section E below, implementing such short-term operating procedures is consistent with section 24.1.2 of the CAISO Tariff and section II.4 of the CAISO Planning Standards, which require CAISO to consider lower cost alternatives to the construction of transmission additions or upgrades. In addition, as we discuss in Section D below, temporary mitigation schemes or operating procedures are not required by the CAISO Tariff to be submitted via the Request Window or to be approved by the CAISO Governing Board.⁵¹ Therefore, we find that the short-term mitigation solutions adopted by the PTOs satisfy Applicable Reliability Criteria and CAISO Planning Standards.

⁵⁰ In response to SWP's concern, we note that section II.4.A of the CAISO Planning Standards already requires CAISO to seek approval from the CAISO Governing Board and to notify stakeholders if CAISO intends to drop load in lieu of building other transmission solutions. However, as we find here, CAISO did not drop load in lieu of building a long-term transmission project. Thus, we do not find it necessary to take the action suggested by SWP in this proceeding.

⁵¹ See BPM, Section 2.1.2.1. We note that the CAISO Tariff does not specifically require temporary load interruptions such as these to be approved by the CAISO Governing Board or incorporated in the TPP.

D. Reliance on Information Outside of the Unified Planning Assumptions and Study Plan

1. Complaint

45. Complainants argue that CAISO did not rely exclusively on information provided by the unified planning assumptions and study plan⁵² while evaluating the TTS and Western Grid Projects. Complainants also allege that CAISO failed to document and advise the other participants of any changes that it made to the unified planning assumptions and did not uniformly apply such changes to information and assumptions to all projects under consideration. Complainants state that these actions violate section 24.2.2.1(b) of the CAISO Tariff, which provides that all technical studies must utilize the unified planning assumptions to the maximum extent possible and that any deviations must be documented.

46. Specifically, for the TTS Projects, while evaluating TTS's and PG&E's proposed projects to meet NERC Category B and C undervoltage concerns in the Garberville area, Complainants note that CAISO decided that PG&E's project was a cost-effective long-term solution but that TTS's project would provide an interim mitigation solution for a two-year gap. However, Complainants state that PG&E later decided to increase regulator settings on an existing transformer in response to projected low voltages, which was a proposal submitted and approved outside of the unified planning assumptions and the TPP.⁵³

47. Complainants also describe a similar fact pattern for NERC Category B undervoltage concerns in the Trinity area, for which TTS proposed an interim solution and PG&E did not propose a mitigation solution. PG&E later indicated that electric demand had declined so as to resolve the undervoltage concerns. Complainants argue that CAISO never identified PG&E's plan to reduce load forecast assumptions in the

⁵² The unified planning assumptions are assumptions such as demand, transmission system topology, generation assumptions and imports to be developed in performing technical studies identified in the study plan as part of the annual transmission planning process. The study plan sets forth the technical studies that will be performed during the annual transmission planning process.

⁵³ See Mueller Affidavit at P 50-53. Generally, because the plans were submitted outside of the Request Window and TPP, the Mueller affidavit also takes exception to CAISO's decision to drop load in lieu of building transmission to address interim reliability concerns in the Maple Creek area; Old River and Kern area; and Santa Cruz area. *Id.* P 38, 43, 57.

unified planning assumptions and that this deviation should have been documented in the preliminary results of the technical studies, not after the cycle had been completed.⁵⁴

48. For the Western Grid Projects, Complainants argue that CAISO's non-transparent deviations from the unified planning assumptions unfairly impacted the Western Grid Projects because Western Grid was acting on the basis of data that had been vetted the previous year. Complainants state that CAISO rejected its Coppermine energy storage project, which was submitted to address NERC Category B thermal and voltage overloads in the Coppermine area. Complainants later realized that there were system configuration changes made, i.e., changing the relevant transmission line to an open position, that would result in load-dropping to alleviate the thermal and voltage overloads. However, Complainants state that this operating procedure was not submitted in the 2009 Request Window.⁵⁵

49. Complainants also assert that CAISO rejected Western Grid's proposed Potrero energy storage project based on a reduced load forecast and updated line ratings by PG&E. Complainants contend that this information was not included in the unified planning assumptions. They further argue that these updated assumptions eliminated the need for Western Grid's project.⁵⁶ Similarly, with respect to Western's Grid's proposed Madison energy storage project, Complainants assert that CAISO rejected the project based on information supplied outside of the unified planning assumptions. For example, according to Complainants, CAISO determined that a temporary re-rate of the Vaca-Madison 115 kV line would eliminate the need for a project in the area. Complainants allege, however, that the plan to re-rate the line was not included in the unified planning assumptions.⁵⁷

2. CAISO's Answer

50. In response to Complainants argument that CAISO deviated from the unified planning assumptions because it allowed the PTOs to implement interim operating procedures to cover the gap until the long-term solutions were operational, CAISO argues that these short-term operating procedures are not required to be submitted through the TPP Request Window. According to CAISO, changes in operating procedures may occur

⁵⁴ See *id.* P 63-67.

⁵⁵ See *id.* P 86-94. Complainants take exception to CAISO's rejection of Western Grid's proposed Weedpatch energy storage project, which was based on its decision that an operating procedure mitigated a NERC Category B thermal overload, for this same reason. *Id.* P 95-101.

⁵⁶ See *id.* P 102-107.

⁵⁷ See *id.* P 108-112.

frequently at any time of the year because these procedures are related to real-time operations. Moreover, CAISO contends that these operating procedures were not changes from the unified planning assumptions used by CAISO in studying the projects.

51. Further, CAISO contends that its analysis of the TTS Projects was straightforward and based on the information provided in the submissions by TTS and the PTOs and the studies conducted by the PTOs. CAISO states that it did not solicit additional information from the PTOs or make adjustments to the unified planning assumptions during the evaluation period.⁵⁸

52. CAISO responds to Complainants' assertion that it planned to drop load in the Maple Creek area, Old River and Kern area, and Santa Cruz area without submitting these plans via the Request Window and TPP. First, CAISO asserts that it did not approve *long-term* planning solutions that involved dropping load. In addition, CAISO states that section 24.2.3 of the CAISO Tariff does not require that these operating procedures be submitted through the Request Window because they are short-term procedures designed to maintain the day-to-day reliability of the grid.

53. CAISO takes issue with Complainants' assertion that PG&E's solution in the Garberville area (i.e., to change the regulator setting on an existing transformer) was submitted after the fact and outside of the TPP. CAISO argues that there is no tariff or BPM requirement that operating procedures and similar protective schemes that do not involve capital transmission project upgrades or additions must be submitted through the Request Window. CAISO argues that this approach is a valid solution until a long-term solution is in place. Furthermore, CAISO argues that PG&E's permanent solution to install reactive support equipment resolves the concerns more effectively than TTS's interim solution.

54. With respect to the Trinity area, CAISO notes that PG&E did not propose a long-term solution, while TTS did submit a proposal. However, CAISO explains that in the Amended 2009 Transmission Plan, it identified Category B undervoltages at the Trinity substation beginning in 2009. CAISO states that the transmission plans also explained that PG&E was negotiating with Trinity Public Utilities District to transfer load at the Trinity substation to the Western Area Power Administration (WAPA), an approach that would also transfer the reliability concerns outside of CAISO's balancing area. CAISO argues that this transfer did not require CAISO approval because it was a WAPA project not part of the CAISO grid and that it also was not required to be submitted through the Request Window as a mitigation solution. CAISO states that the transfer was placed in service in May 2010, and it addressed all reliability concerns in the area. Further, CAISO

⁵⁸ CAISO Answer at 37.

notes that TTS's interim solution could not have been implemented until October 2010, once the reliability concerns had been addressed and there was no need for the project.

55. CAISO disagrees with Complainant's argument that deviations from the unified planning assumptions unfairly impacted the Western Grid Projects. CAISO states that, with respect to Western Grid's Coppermine energy storage project, PG&E identified a reliability problem in the area but that the issue was resolved by a maintenance project completed before Western Grid proposed its solution. CAISO argues that the CAISO Tariff does not require such maintenance projects to be submitted through the TPP Request Window.

56. With respect to the Weedpatch energy storage project, CAISO argues that PG&E's decision to open the Weedpatch breaker to prevent overloads was not an arbitrary change in the unified planning assumptions or that it was implemented to avoid the need for independent transmission projects. CAISO contends that the CAISO Tariff does not require PG&E's operating procedure to open the breaker to be submitted through the TPP Request Window. Additionally, CAISO claims that the new operating procedure was explained to Western Grid and other market participants in the drafts and 2010 Final Transmission Plan and in a February 16, 2010 presentation to stakeholders. CAISO states that the operating procedure was also presented to the CAISO Governing Board for approval.

57. CAISO claims that Western Grid's proposed Madison energy storage project was rejected because PG&E determined that re-rating the relevant transmission line would address concerns of a Category A overload, which according to CAISO, is an allowable procedure to rectify small overloads. CAISO argues that this procedure was properly documented and that it did not commit any tariff violations in rejecting the Western Grid Project.⁵⁹

58. Finally, CAISO disagrees that it allowed the unified planning assumptions to be updated in order to eliminate the need for Western Grid's Potrero energy storage project. Instead, CAISO explains that PG&E provided updated line ratings that were 30 percent higher than previously estimated, which represented that there were no overload facilities. CAISO contends that it reviewed the rating and found them to be reasonable, included the update in a draft CAISO Grid Transmission Plan for 2010, and discussed the change during the February 16, 2010 open stakeholder meeting. CAISO argues that this update is not required to be submitted via the TPP Request Window.

⁵⁹ CAISO notes that even if a project were needed in this area, PG&E's proposed solution, which was also rejected, is a more cost-effective solution than the Western Grid Project. *Id.* at 107.

3. Comments and Protests

59. PG&E argues that it is not required to submit its operating solutions in the TPP Request Window by the CAISO Tariff or BPM, except for operating solutions that address local capacity area resource requirements, because they do not involve an expansion of the transmission grid. PG&E asserts that the use of operating solutions to address interim reliability concerns during the implementation of a long-term project is considered prudent utility practice.⁶⁰

60. PG&E asserts that CAISO did not approve the TTS Project for the Trinity area because no potential voltage needs existed due to the transfer of load to WAPA.⁶¹ PG&E argues that CAISO did not include the revised load forecast in its unified planning assumptions for the 2009 CAISO Grid Transmission Plan because the Trinity load transfer was not final at that time.⁶²

61. With respect to Western Grid's proposal in the Coppermine area, PG&E maintains that CAISO did not improperly change its unified planning assumptions to remove the area's reliability need, as Complainants allege. Instead, PG&E explains that its conversion project that had been approved in the 2008-2009 TPP cycle was projected for completion by May 2011, but was completed earlier. Thus, PG&E asserts that there were no reliability violations in the area and the Western Grid Project was appropriately rejected as unnecessary.⁶³

62. PG&E also argues that CAISO rejected Western Grid's proposal in the Weedpatch area because when modeled correctly to include an existing PG&E operating solution, the CAISO system presented no potential reliability needs.⁶⁴

4. Commission Determination

63. Under section 24.2.1 of the CAISO Tariff, CAISO is charged with developing unified planning assumptions and study plan using information and data from the previous TPP cycle's Request Window.⁶⁵ Section 24.2.3 of the CAISO Tariff states that

⁶⁰ PG&E Protest at 8.

⁶¹ *Id.*

⁶² *Id.* at 18.

⁶³ *Id.* at 24.

⁶⁴ *Id.*

⁶⁵ The unified planning assumptions and study plan shall describe the planning data and assumptions to be used as a base case for technical studies to be performed for the TPP. CAISO or other entities shall perform the technical studies, which will include

(continued...)

the only alternatives to transmission upgrades and additions that need to be submitted in the Request Window to be considered for the CAISO Transmission Plan are demand response programs and generation projects. Further, section 2.1.2.1 of the BPM states that alternative solutions to transmission projects are not required to be submitted during the Request Window.

64. Accordingly, we agree with CAISO that the short-term operating procedures, maintenance projects, and similar mechanisms described by Complainants, which did not involve transmission additions or upgrades (or address local capacity area resource requirements), did not need to be included in the Request Window for the applicable TPP cycle. These procedures were interim measures that were implemented to address reliability concerns during temporary gaps until the long-term solutions became operational, consistent with prudent utility practice.⁶⁶ As explained by CAISO, changes in operating procedures may occur frequently at any time of the year because these procedures are related to real-time operations. Thus, it is impractical and contrary to the best interests of ratepayers to suggest that such short-term operating procedures and mechanisms, which maintain the day-to-day reliability of the grid, may only be implemented once they are submitted in an annual Request Window and accepted in the final Transmission Plan.

65. We are not persuaded by Complainants' argument that these operating procedures and similar mechanisms amounted to deviations from the unified planning assumptions that CAISO failed to document or uniformly apply to all projects. As noted above, these short-term operating procedures may occur frequently during any time of the year because they are related to real-time operations and, typically, do not require construction of new transmission facilities that require cost recovery through transmission rates. As a result, these procedures do not implicate the basic planning assumptions and inputs used in preparing the technical studies needed for the TPP. There is likewise no requirement under section 24.2.3 of the CAISO tariff to undertake these activities only within the TPP.

66. We have reviewed Complainants' specific project-by-project allegations that CAISO accepted operating solutions that had not been submitted in the Request Window or included in the unified planning assumptions, as well as CAISO's and PG&E's responses. We find these allegations to be without merit. For the relevant TTS Projects,

a congestion data summary and proposed reliability projects and mitigation solutions. After CAISO posts the technical studies, allowing opportunity for comments and stakeholder meetings, parties shall submit transmission upgrades and additions in the Request Window. CAISO Tariff, Sections 24.2.1.2(a), 24.2.2, 24.2.2.1(a), and 24.2.3.

⁶⁶ Reliability Standard TPL-002-0a (System Performance Following Loss of a Single Bulk Electric System).

Complainants do not adequately support their argument that CAISO violated the CAISO Tariff or BPM in considering operating procedures as viable and cost-effective interim solutions during the gap period before the permanent project would be placed in service. Similarly, for the relevant Western Grid Projects, CAISO's rejection of these projects was based on its proper assessment, in each case, that there was no corresponding reliability need that would require any reliability project.

E. CAISO's Least-Cost Analysis in Comparing the TTS Projects and the Western Grid Projects to Competing Projects

1. Complaint

67. Complainants state that, under section 24.1.2 of the CAISO Tariff, CAISO is required to consider lower cost alternatives to the construction of transmission additions and upgrades when determining the needs of the system to ensure reliability. Further, section 4.2.1 of the BPM requires that a preferred reliability project must be an economically efficient approach to resolve reliability violations, which generally requires a least-cost solution.⁶⁷

68. Complainants argue that, in violation of these requirements, CAISO failed to select the least-cost alternative when assessing the TTS Projects and the Western Grid Projects against their competing projects. They contend that an economic analysis consistent with the requirements of the CAISO Tariff must compare more than just capital costs; for example, operation and maintenance (O&M) expenses and administrative and general (A&G) expenses may vary from project to project and impact the calculation of the overall total cost-effectiveness of proposed projects. Thus, CAISO's economic analysis should have considered the total costs of each project in its comparison of the project's net present value, not simply the capital costs. Complainants submit their own cost analysis in an affidavit, which purports to demonstrate that at least two of the TTS Projects had lower total costs, which would have resulted in savings to ratepayers of about \$27 million, and that implementation of the Western Grid Projects may have saved ratepayers approximately \$97 million.⁶⁸

69. Further, Complainants argue that CAISO failed to consider the TTS Projects' additional benefits in its comparison, such as increased system reliability and availability; increased dynamic and transient grid stability and reduced loop flows; increased quality

⁶⁷ However, Complainants state that under the BPM, in some circumstances, least-cost solutions may not be selected or recommended if CAISO finds that another approach appears to be more prudent. Complaint at 15 (citing BPM, Section 4.2.1).

⁶⁸ *Id.* at 16; Complaint, Attachment A, Affidavit of Ziad Alaywan in Support of TTS's and Western Grid's Complaint, at P 64.

of supply to sensitive industries; environmental benefits; better utilization of existing transmission; renewable generation integration; and operational benefits created by smart grid implementation. For the Western Grid Projects, Complainants argue that CAISO failed to include in its comparison economic benefits resulting from the projects' provision of regulation up, spinning and non-spinning reserve, and available capacity to the grid, which can be counted toward CAISO's resource adequacy requirements.

70. Complainants also allege that CAISO's conclusion was not supported by adequate documentation or comparative economic calculations and that CAISO failed to provide the results of any analysis to Complainants.

2. CAISO's Answer

a. CAISO's Least-Cost Analysis

71. CAISO contends that for each area where TTS submitted a reliability proposal, with the exception of the Trinity Area where the load was leaving CAISO's balancing area, PG&E and SoCal Edison proposed more cost-effective solutions that involved constructing upgrades to address the reliability performance concerns on a permanent basis.⁶⁹ CAISO states that all of the PTOs' long-term proposed solutions were more cost-effective than the TTS Projects and that, in some instances, the PTO proposals also solved additional reliability concerns.

72. CAISO states that TTS's solutions were proposed as "interim" projects that would resolve short-term reliability needs until the permanent facilities-based mitigation solutions submitted by the PTOs could be implemented. However, CAISO argues that TTS only submitted the costs of the leasing arrangement for five years and did not provide information describing what the costs would be under various lease lengths. CAISO explains that since TTS proposed solutions with minimum five-year leases, it compared those solutions against the PTOs' long-term solutions. CAISO argues that since all of PG&E's proposals were presented at the November 20, 2008 open stakeholder meeting, about a month before TTS submitted its proposals, TTS should have submitted interim solutions that complemented PG&E's solutions, or entirely alternative solutions.⁷⁰ Nevertheless, CAISO contends that it notified the PTOs that most of TTS's solutions were possible short-term solutions that could address reliability concerns until permanent projects were operational.⁷¹

⁶⁹ CAISO Answer at 38-39.

⁷⁰ *Id.*

⁷¹ *Id.* at 60-64.

73. In addition, CAISO explains that four of the long-term mitigation solutions that PG&E had proposed would be implemented within eight months after TTS's proposals were proposed to commence.⁷² CAISO argues that incurring the costs of a five-year lease of SVC equipment made little sense in light of this minimal gap.⁷³ Moreover, CAISO explains that the TTS Projects were not the only short-term solutions available because PTOs can alternatively pursue certain operating procedures and protective schemes that do not need to be submitted via the TPP Request Window.⁷⁴

b. CAISO's Answer to Complainants' Least-Cost Analysis

74. CAISO disagrees with Mr. Alaywan's affidavit, which argues that five of the Western Grid Projects and two of the TTS Projects would result in lower costs to ratepayers than the approved PG&E's projects.⁷⁵ CAISO argues that Complainants' cost analysis and related claims are misplaced and flawed.

75. CAISO argues that Mr. Alaywan's cost analysis improperly uses a different O&M and A&G expense calculation method to determine those costs for the competing projects and that it fails to address the different service lives of the various projects in its net present value analysis. Moreover, CAISO argues that Mr. Alaywan's analysis does not apply the discount rates to calculate the net present values of competing projects' consistently, and does not use the proper inflation rates for certain costs. CAISO argues that these flaws give the Complainants' projects an artificial cost advantage over the PTOs' projects.⁷⁶ Accordingly, CAISO argues that the Complainants' cost analysis determining "ratepayer savings" is flawed.

76. Moreover, CAISO argues that, although Mr. Alaywan claims that the Complainants' projects could save ratepayers \$124 million, he fails to mention that there is no reliability need for some of these projects, such as in the Coppermine, Weedpatch, and Potrero areas. Thus, CAISO argues that adopting these projects would actually result

⁷² This is true for the Old River and Kern, California and West Fresno, Garberville, and Maple Creek areas (all in PG&E's service territory).

⁷³ CAISO Answer at 38.

⁷⁴ *Id.* at 39.

⁷⁵ According to CAISO, Mr. Alaywan's affidavit provides a cost comparison for five of the Western Grid Projects (i.e., Placer, Coppermine, Weedpatch, Tulucay, and Potrero energy storage projects) and two of the TTS Projects (Old River and Watsonville interim solutions), asserting that only these projects are more cost-effective than the projects approved by CAISO. *See id.* at 121-123.

⁷⁶ *Id.* at 135.

in millions of dollars spent on unnecessary new costs to ratepayers.⁷⁷ Additionally, CAISO argues that Mr. Alaywan's claim that the Western Grid's Auburn energy storage project would save ratepayers \$45 million is misplaced because (1) CAISO has not yet approved any projects for this area and (2) Western Grid's proposed project only resolves two of the identified reliability concerns, while PG&E's project resolves fifteen of the reliability concerns. CAISO therefore argues that PG&E's project is more prudent, despite it being slightly more expensive. Similarly, regarding Western Grid's proposed Tulucay energy storage project, CAISO argues that Western Grid's project fails to solve two of the identified needs, while PG&E's projects resolve all of those needs.⁷⁸

77. CAISO takes issue with Complainants' claim that the Western Grid Projects could provide certain ancillary services in addition to addressing reliability concerns, resulting in significant savings to California ratepayers. CAISO contends that the Western Grid Projects cannot provide the ancillary services that Western Grid claims. According to CAISO, these extra services are beyond the scope of the services Western Grid had previously explained that its battery storages would provide⁷⁹ and ignore the express limitations the Commission placed on these storage units if they were treated as transmission facilities.⁸⁰

78. In addition, CAISO argues that Western Grid and TTS did not provide sufficiently detailed accounting information, the underlying basis for its estimates, or any back-up support that CAISO could use in assessing actual O&M and A&G costs. Thus, CAISO argues that there is no basis to assess and validate the reasonableness of the Complainants' project cost estimates.

79. CAISO explains that to determine the best, cost-effective solution, it applies "planning level costs," which reflect relevant cost benchmarks, such as cost per mile of transmission line construction, substation equipment, or transformers. CAISO contends

⁷⁷ *Id.* at 127.

⁷⁸ *Id.* at 128.

⁷⁹ CAISO argues that in Western Grid's petition for declaratory order requesting the Commission confirm that the energy storage projects were properly classified as transmission facilities, Western Grid pointed out the various reliability services that its project would provide and indicated that the units would not provide any ancillary services or capacity benefits. *Id.* at 136-138.

⁸⁰ *Id.* at 137 (citing Western Grid Order, 130 FERC ¶ 61,056 at P 3-5). According to CAISO, the Western Grid Projects were proposed as transmission service only reliability projects; the Commission accepted this factor in approving Western's Grid's petition that the energy storage projects were properly classified as transmission facilities eligible for inclusion in transmission rate base. *Id.*

that using these planning level costs is appropriate because it enables it to conduct a relative cost comparison between materially different alternatives that could meet the identified need, such as the ones provided by the Complainants and the PTOs.

3. Comments and Protests

80. PG&E states that the Complainants' cost-benefit analysis contains unsupported assumptions and incorrect methodology, such that the analysis fails to account for different project lives, uses unsupported O&M and A&G expense rates, utilizes different discount rates to evaluate competing proposals, and does not consider book and tax depreciation impacts.⁸¹ Moreover, PG&E argues that the analysis for Western Grid's proposed Potrero energy storage project is flawed because it incorporates hypothetical project costs instead of actual data.⁸²

81. In addition, PG&E supports CAISO's least-cost analysis, stating that for the TTS Projects, PG&E had already planned to employ no-to-low cost operating solution to satisfy reliability needs during the interim period in which TTS believes its projects should have been approved.⁸³ As for Western Grid's proposals, PG&E contends that previously approved, planned, or existing projects or operating solutions addressed the reliability needs, thus making the Western Grid Projects unnecessary or not cost-effective.⁸⁴

4. Commission Determination

82. We find that CAISO appropriately followed the CAISO Tariff and BPM to select the most cost-effective reliability solutions. CAISO Tariff section 24.1.2 and BPM section 4.2.1 delineate the criteria that CAISO must use to identify the best reliability solution. These provisions require CAISO to compare all competing solutions based on: (1) the project's need; (2) the determination that there is sufficient data to evaluate the project; (3) the determination that the project is technically sound; and (4) the project's cost-effectiveness. Specifically, regarding cost-effectiveness CAISO's governing provisions state that:

The preferred alternative must be an economically efficient approach to resolve criteria violations. Generally, this requires a least-cost solution. However, in some

⁸¹ PG&E Protest at 22.

⁸² *Id.*

⁸³ *Id.* at 4.

⁸⁴ *Id.*

circumstances, least-cost solutions may not be selected or recommended if [CAISO] finds that another approach appears to be more prudent. For example, if the analysis identifies that several criteria violations in the same vicinity can be anticipated in the future, [CAISO] may recommend a construction of capital projects to eliminate all violations at the same time rather than incrementally addressing each violation in a potentially piece-meal fashion. This approach tries to avoid expenditures on redundant upgrades which may result in higher costs to the rate payers.^[85]

83. We have considered this CAISO Tariff and BPM guidance and the evidence in the record of CAISO's project-by-project cost comparisons and determined that, in each instance, CAISO complied with the CAISO Tariff and BPM in assessing the projects' capital costs and total costs to approve the most prudent solution. First, we find that CAISO properly selected the most economically efficient solution using the quantifiable capital cost data provided by each of the project sponsors. For example, in the Maple Creek area, TTS submitted a project with a cost of \$16.3 million, which it proposed to be in service for five years. In contrast, PG&E submitted a solution to address the same reliability concerns with a cost estimated to be less than \$5 million.⁸⁶ CAISO correctly approved PG&E's solution because it is not only the least-cost alternative, but it is also a *long-term* solution, while TTS's proposal is not.

84. Moreover, consistent with the guidance in BPM section 4.2.1, we find that CAISO accounted for additional project benefits in its cost analysis for the competing solutions. This is supported by the fact that CAISO chose several projects, which on their face appear to be more expensive, but that provide additional benefits or services beyond those required to satisfy the immediate reliability issue that make those projects the most prudent and most cost-effective solutions in the long-run. For example, Complainants argue that Western Grid's \$37.5 million Tulucay energy storage project is the least-cost alternative to PG&E's \$40 million proposal. However, CAISO selected PG&E's \$40 million project because it addresses three reliability concerns on two different transmission lines, while Western Grid's \$37.5 million project only address one of those reliability concerns on one transmission line. We note that if Western Grid's Project had been approved, CAISO would be required to address the remaining overload concerns and likely incur additional costs through other long-term solutions or other interim solutions until a more permanent approach was defined. Thus, we find that CAISO reasonably concluded that PG&E's project is ultimately the most prudent and cost-

⁸⁵ BPM, Section 4.2.1.

⁸⁶ See Amended 2009 Transmission Plan at 4.

effective solution. We find that for each of the incumbent and non-incumbent proposed projects, CAISO adequately considered lower cost alternatives, selected economically efficient solutions, accounted for more than just capital costs, and considered additional project benefits.

85. In addition, for the reasons explained below, we are not persuaded by Complainants' allegations that CAISO failed to consider the additional benefits, if any, of the Complainants' projects or by the Complainants' cost analyses claiming cost savings by the TTS and Western Grid Projects. First, as CAISO explains, CAISO properly did not consider the purported benefits associated with the Western Grid Projects' provision of ancillary services because Western Grid has already made clear that it does not provide ancillary services as it now claims.⁸⁷ In addition, Complainants' cost-benefit analysis contains various unsupported assumptions and follows inconsistent methodologies. For example, as CAISO and PG&E have argued, Mr. Alaywan's analysis uses O&M and A&G expenses that are not adequately supported in the analysis and appear to inflate PG&E's project costs. Further, Mr. Alaywan's cost analysis fails to compare projects with similar life spans and does not account for this difference in total costs of those projects.⁸⁸ Next, in several instances the cost analysis inappropriately considers project costs for different lengths of service than originally proposed via the Request Window.⁸⁹ In addition, the analysis does not take into account that in several instances PG&E's solutions resolve more reliability concerns than the Complainants' proposals. Without accounting for the additional cost that would need to be incurred to resolve these additional reliability issues if the Complainants' proposals were implemented, the projects cannot be accurately compared. Moreover, as CAISO argues, in several instances the Complainants suggest pursuing reliability projects where no reliability need has been identified. Thus, we find that Complainants have not offered a reliable cost analysis to accurately show that their projects would result in savings to ratepayers. In

⁸⁷ In petitioning the Commission to declare that their projects are wholesale transmission facilities Western Grid described these projects as transmission service only reliability projects that would not provide ancillary services. The Commission granted Western Grid's petition based on that commitment. *See* Western Grid Order, 130 FERC ¶ 61,056 at P 3-5, 45.

⁸⁸ For example, the analysis compares Western Grid Projects with a life span of 25 years against PG&E's projects with a life span of 40 years and concludes that the Western Grid Projects would save ratepayers millions of dollars, without accounting for the 15 year difference.

⁸⁹ For example, TTS originally proposed the Watsonville solution for a five-year period. However, in the cost analysis, TTS suggests (and basis its cost evaluation on) implementing the Watsonville solution for the first ten years and then implementing PG&E's long-term project for the next 25 years.

contrast, CAISO has shown that it evaluated the projects based on total costs, as well as the additional project benefits, and that CAISO's analysis produced a just, reasonable, and not unduly discriminatory result.

86. In addition, we disagree with Complainants' argument that CAISO did not support its conclusion with adequate documentation of a comparative economic assessment. Although Complainants seek to impose a requirement that CAISO evaluate the projects using net present value calculations, the CAISO Tariff does not dictate a specific calculation methodology to compare project costs. We recognize that the methodology to compare projects may vary depending on the nature of the projects being evaluated. Here, CAISO used a comparative assessment to conduct a relative cost comparison between materially different alternatives that could meet the identified needs. As discussed above, for each of the proposed projects, CAISO considered capital costs, additional project benefits,⁹⁰ and the project lifespan, as well as costs other than capital costs, as noted in paragraph 79. Complainants have not demonstrated that CAISO's cost analysis used here is inconsistent with the CAISO Tariff.

F. CAISO's Approval of Three PG&E Projects Prior to its Final Decision of TTS's Competing Projects

1. Complaint

87. Complainants argue that in the 2009 Final Transmission Plan, CAISO approved three of PG&E's projects as long-term mitigation solutions for the Maple Creek area, Garberville area, and California and West Fresno area in preference to the competing TTS Projects.⁹¹ According to Complainants, CAISO ignored the TPP by approving these three PG&E projects without considering TTS's least-cost alternatives, thereby violating section 24.1.2 of the CAISO Tariff.⁹² Further, Complainants argue that these TTS

⁹⁰ For example, CAISO considered whether the project would provide additional benefits or services beyond those required to satisfy the immediate reliability issue. *See* discussion *supra* P 84.

⁹¹ PG&E's approved projects were the Maple Creek Reactive Support project, the Garberville Reactive Support project, and the Sanger-California Ave 70kV to 115 kV Voltage Conversion project. TTS's competing projects were the Maple Creek interim solution, the Garberville interim solution, and the West Fresno interim solution. Complaint at 12, n.79.

⁹² Section 24.1.2 of the CAISO Tariff states, "[t]he CAISO...will...identify the need for any transmission additions or upgrades required to ensure System Reliability.... In making this determination, the CAISO...shall consider lower cost alternatives to the

(continued...)

Projects were absent in a subsequent posting of the study plan to be used for the CAISO 2010 Transmission Plan, indicating that the projects had been denied and removed from consideration. Complainants argue that this action indicated a failure by CAISO to compare projects in a non-discriminatory manner and violated CAISO's BPM.⁹³

2. CAISO Answer

88. CAISO states that regarding TTS's Maple Creek area, TTS proposed an interim solution with a commercial in-service date of October 2010, while PG&E proposed a permanent solution expected to be in service in May 2011, leaving only an eight-month gap where there was an identified reliability concern. CAISO explains that for the interim eight-month gap before the permanent solution is installed, PG&E elected to pursue a low-to-no-cost temporary mitigation solution which involves disabling the automatic switching of Maple Creek circuit breakers and switch to prevent low voltage conditions during high peak demand periods. CAISO contends that this procedure is not load shedding, and is the least cost solution because TTS's proposal was an excessive and costly eight month solution.⁹⁴ Further, regarding the Garberville area, CAISO argues that PG&E's \$10 million permanent solution to install reactive support equipment resolves the reliability concerns more effectively than TTS's \$16.3 million interim solution. Similarly, CAISO explains that in the California and West Fresno areas, PG&E proposed a lower cost solution than TTS.

3. Commission Determination

89. We find that, for the Maple Creek, Garberville, and California and West Fresno areas, CAISO properly approved PG&E's long-term mitigation solution and temporary mitigation scheme, and rejected TTS's competing solutions based on the project costs and in accordance with the CAISO Tariff and BPM.

construction of transmission additions or upgrades." Complainants also cite section 24.2.4(b) of the CAISO Tariff, which states, "[t]he draft and final Transmission Plan may include but is not limited to...(3) assessments of transmission upgrades and additions submitted as alternatives to the potential solutions to transmission needs identified by the CAISO and studied during the [transmission planning process cycle]." *See* Complaint, Attachment D (Violation #1).

⁹³ Complaint at 12 (citing section 4.2.1 of the BPM for the criteria to be used in comparing competing reliability projects). Complainants argue that CAISO did not abide by such criteria when it approved PG&E's three projects over TTS's projects because it did not consider TTS's competing proposals. *Id.*

⁹⁴ CAISO Answer at P 46-48.

90. For the Maple Creek area, PG&E proposed to install a 10 MW MVAR Reactive Support unit to permanently mitigate a NERC Category B undervoltage for a cost of less than \$5 million. In contrast, to address the same concern for a five-year period starting in October 2010, TTS proposed to install a similar project⁹⁵ at the cost of \$16.3 million. In addition, because PG&E's solution would not be in-service prior to the existence of the Category B and C undervoltage concerns, PG&E chose to implement a low-cost, short-term mitigation scheme.

91. For the Garberville area, PG&E proposed the Garberville Reactive Support project to permanently mitigate certain NERC Category B and C undervoltage concerns, which had an estimated cost of less than \$10 million and is expected to be in service in May 2011. In contrast, TTS submitted a similar proposal to address the same reliability concerns, starting in October 2010 and going for five years, at a cost of \$16.3 million. Further, regarding the California and West Fresno related projects, PG&E proposed to reconductor and convert the Sanger-California 70 kV transmission line to a 115 kV transmission line, which PG&E proposed to have in service by May 2011 at an estimated cost of less than \$10 million. In contrast, TTS proposed to install a SVC unit for a period of five years starting on October 2010, at a cost of \$16.3 million.

92. In light of these facts, we find that CAISO adequately considered and compared the costs of TTS's and PG&E's proposed solutions, and selected the most prudent projects as required by the CAISO Tariff and BPM. In addition, while the long-term projects were implemented, PG&E developed temporary mitigation solutions at little or no cost to ratepayers in order to maintain the day-to-day reliability of the grid, which were more prudent than the TTS Projects. Further, Complainants have not provided adequate evidence to prove that CAISO failed to consider the TTS Projects, violated the CAISO Tariff or BPM, or discriminated against TTS Projects. Accordingly, we find that those allegations are without merit.

G. CAISO's Amended 2009 Transmission Plan and Exclusion of the TTS Projects

1. Complaint

93. Complainants argue that, in violation of the CAISO Tariff and BPM, CAISO amended and finalized the 2009 Final Transmission Plan without offering a fair opportunity for stakeholders to comment.⁹⁶ Specifically, Complainants contend that

⁹⁵ TTS proposed to install a direct connect -40/+50 MVAR SVC.

⁹⁶ Section 24.2.4 of the CAISO Tariff requires CAISO to post on its web site a draft CAISO Grid Transmission Plan for stakeholder comment prior to approving a final CAISO Grid Transmission Plan.

CAISO provided PTOs ample opportunity to exchange information, project proposals, and planning assumptions with CAISO but did not provide TTS with a comparable opportunity to be heard concerning the Amended 2009 Transmission Plan, in part, because CAISO would not accept any comments from TTS.

94. In addition, Complainants argue that the 2009 Final Transmission Plan, which listed ten of the TTS Projects as ongoing projects requiring further evaluation, became final once it was presented to the CAISO Governing Board as required by section 24.2.4.1 of the CAISO Tariff. However, according to Complainants, CAISO later amended the plan and wrongfully rejected all of the TTS Projects based on previously undisclosed information.⁹⁷

95. Further, Complainants argue that the TTS Projects were improperly barred from reconsideration in the next TPP cycle. According to Complainants, pursuant to section 2.2.2 of the BPM, projects listed as “pending” that are not addressed in any amendment will be considered in the next annual cycle. Complainants state that the TTS Projects were listed as “pending” in the 2009 Final Transmission Plan, but were not given a “pending” designation; instead, the projects were listed as “Ongoing Projects Requiring Further Information or Evaluation.”⁹⁸ However, since section 2.1.2.1 of the BPM permits projects requiring additional technical study to be included in the following cycle’s study plan, Complainants argue that these projects should have been included in the next TPP cycle (i.e., 2009-2010 planning cycle).

2. CAISO’s Answer

96. CAISO argues that because the TTS Projects were under \$50 million, CAISO’s management was authorized by the CAISO Tariff and BPM to reject TTS’s remaining 10 projects without an additional formal publication or approval by the CAISO Governing Board.⁹⁹ In addition, CAISO explains that the CAISO Tariff allows it to amend each final plan once if it is done prior to the start of the next planning cycle. Further, CAISO argues that it provided TTS and all other stakeholders an opportunity to comment on the Amended 2009 Transmission Plan. Specifically, CAISO states that on March 24, 2009, it held a stakeholder meeting, during which it explained that the 2009 Final Transmission

⁹⁷ Complainants acknowledge that section 2.2.2 of the BPM permits CAISO to amend its transmission plan one time, prior to the opening of the request window for the next cycle. Complaint at 13.

⁹⁸ *Id.* 13-14.

⁹⁹ CAISO states that section 24.2.4(d) of the CAISO Tariff and section 2.2.1 of the BPM allow CAISO’s management to approve or reject projects that are less than \$50 million. CAISO Answer at 34-35.

Plan would be amended to reflect the final decision for the TTS Projects, which were described in the 2009 Final Transmission Plan as requiring further evaluation, and the remaining PG&E projects. CAISO states that PG&E took advantage of this opportunity to provide input and submitted comments, and that TTS, however, did not submit any comments. CAISO states that a market notice was issued when the Amended 2009 Transmission Plan was posted on June 8, 2009.

97. In addition, CAISO contends that the TTS Projects were listed as pending in the 2009 Final Transmission Plan and were properly considered in the 2008-2009 planning cycle and not during the 2009-2010 planning cycle. CAISO argues that TTS had requested that the TTS Projects be considered during the 2008-2009 transmission planning cycle and not during the 2009-2010 planning cycle. Finally, CAISO contends that the CAISO Tariff does not preclude project reconsideration in a later planning cycle and that participants are not barred from submitting projects repeatedly.

3. Commission Determination

98. We disagree with Complainants' argument that CAISO did not properly follow the procedure required under the CAISO Tariff and BPM in developing the Amended 2009 Transmission Plan. We note that, pursuant to section 24.2.4 of the CAISO Tariff, CAISO appropriately posted draft and final versions of its 2009 CAISO Grid Transmission Plan, conducted public conferences, accepted comments from stakeholders, and later presented the 2009 Final Transmission Plan to the CAISO Governing Board for approval. Also, as Complainants themselves point out, section 2.2.2 of the BPM permits a one-time amendment to the final CAISO Grid Transmission Plan after presentation to the CAISO Governing Board and before the Request Window for the next annual cycle. Thus, we find that CAISO did not violate its tariff or BPM by making a one-time amendment to the 2009 Final Transmission Plan. Moreover, section 2.2.2 does not indicate that a *draft* amended version needs to be posted for stakeholder comment; thus, CAISO was not obligated to post such a draft version, as the Complainants allege.

99. Next, we are not persuaded by the argument that CAISO provided opportunity to the PTOs to comment on the Amended 2009 Transmission Plan while precluding TTS from the same opportunity. As CAISO states, it held a stakeholder meeting in March 2009 when it announced that the 2009 Final Transmission Plan would be amended to reflect the final decision for the TTS Projects and it accepted comments after this meeting. Indeed, according to CAISO, PG&E submitted comments at that time but TTS did not take the opportunity to do so.¹⁰⁰ Thus, we do not find evidence of discriminatory behavior by CAISO.

¹⁰⁰ See *id.* at 33-34.

100. Complainants also argue that CAISO failed to seek approval from the CAISO Governing Board before finalizing the Amended 2009 Transmission Plan. We disagree. As we described above, a one-time amendment to the final CAISO Grid Transmission Plan is permitted under section 2.2.2 of the BPM, which does not explicitly require notification to or approval by the CAISO Governing Board. Further, CAISO also points out that CAISO's management may approve projects with a capital investment of less than \$50 million without notifying or receiving approval from the CAISO Governing Board.¹⁰¹

101. Finally, we disagree with Complainants' argument that the TTS Projects were improperly barred from reconsideration in the next TPP cycle. Complainants argue that since none of the TTS Projects were listed as "pending" but were listed as "Ongoing Projects Requiring Further Information or Evaluation" in the 2009 Final Transmission Plan, the Amended 2009 Transmission Plan should not have dismissed the TTS Projects. Rather, according to Complainants, the projects should have been considered in the next TPP cycle. This argument is without merit. In particular, we note that TTS itself had requested that the TTS Projects be considered during the 2008-2009 transmission planning cycle and not during the 2009-2010 planning cycle. Accordingly, CAISO posted the Amended 2009 Transmission Plan to address the pending projects. Further, section 2.1.2.1 of the BPM requires projects submitted during the Request Window that need additional technical studies for evaluation to be included in the following cycle's study plan. We are not persuaded that CAISO found that the TTS Projects required additional technical studies, but simply that additional time for evaluation was needed. For these reasons, we disagree with Complainants' allegations that the TTS Projects were improperly barred from reconsideration in the next TPP cycle but find that they were properly addressed in the Amended 2009 Transmission Plan.

H. Western Grid Project Not Accepted in the 2009-2010 TPP

1. Complaint

102. Complainants argue that CAISO rejected Western Grid's proposed Auburn energy storage project in the 2009-2010 TPP without providing any evidence that it conducted a rational technical or total comprehensive analysis of the project and the competing project proposed by PG&E. According to Complainants, CAISO noted that, due to the complexity and numerous binding constraints involved in the area in question, it was not clear that the proposed Auburn energy storage would mitigate these constraints. Complainants allege that CAISO also stated that it was still considering all possible solutions and that the Auburn energy storage project would be considered in the next planning cycle. Nevertheless, Complainants state that CAISO rejected the proposed

¹⁰¹ See CAISO Tariff, Section 24.2.4(d); BPM, Section 2.1.24.

Auburn energy storage project from consideration. Complainants argue that, although CAISO was uncertain of the comprehensive plan for the area, it had already concluded that the Auburn energy storage project would not be included. Further, the necessary power flow analysis and economic analysis had not been completed. For these reasons, they argue that CAISO's assessment was inaccurate, incomplete, and in violation of section 2.1.2.1 of the BPM.¹⁰²

2. CAISO's Answer

103. CAISO argues that the Complainants incorrectly assert that CAISO rejected Western Grid's Auburn energy storage project. According to CAISO, as stated in the 2010 Final Transmission Plan, it has not finalized its evaluation of the proposed projects in the area, and is therefore still considering all the proposals. CAISO notes that Western Grid's project itself does not constitute a comprehensive long-term solution for the overall problems in this area because the project only aims to resolve two reliability concerns. CAISO notes that PG&E's proposal, which is also still being evaluated, aims to resolve 15 peak reliability concerns in addition to other off-peak concerns. In light of that fact, CAISO argues that Western Grid's cost analysis comparing its project with PG&E's is not appropriate because it fails to account for the 13 reliability problems that its proposed solution does not resolve.

104. CAISO contends that it adequately documented its economic and technical analyses in the 2010 Final Transmission Plan. CAISO argues that the Complainants attempt to impose obligations on it that go beyond what is required by the CAISO Tariff and BPM. CAISO explains that section 2.2.1 of the BPM requires CAISO to identify "[t]ransmission project proposals [CAISO] management does not approve along with the basis of its decisions," which CAISO argues it adequately did during the 2010 Final Transmission Plan. CAISO argues that this transparency is consistent with Order No. 890 and requiring the amount of detail suggested by Western Grid would be counter productive and unduly burdensome on CAISO resources.

¹⁰² According to Complainants, section 2.1.2.1 of the BPM states that each project submitted in the Request Window that requires additional study "will be included in the following cycle's Study Plan" and that "[p]roject proposals for which all necessary technical studies have been completed will be considered in the approval process (Stage 3) of the ISO planning process and included in the Transmission Plan for that cycle." *See* Complaint at 23.

3. Comments and Protests

105. PG&E explains that its project should be favored over the Western Grid Project because its project proposal will resolve all of the identified reliability needs.¹⁰³ PG&E opposes Complainants' argument that CAISO failed to perform adequate technical analysis on the proposed Auburn energy storage project because CAISO is allowed to defer consideration of proposals until the subsequent study cycle. Moreover, PG&E argues that the decision to defer technical analysis until the next planning cycle was appropriate because the reliability needs would not need to be addressed until 2016 at the earliest.¹⁰⁴

4. Commission Determination

106. We find that CAISO did not reject or approve a project to resolve the reliability problems in this area in the 2010 Final Transmission Plan. Complainants' contention that CAISO rejected Western Grid's proposed Auburn energy storage project without providing evidence that it conducted a rational technical or total comprehensive analysis of the competing projects is without merit. Regarding the project, the 2010 Final Transmission Plan states that:

Thus, [CAISO] will evaluate the battery storage project to determine whether PG&E should be directed to install such facility to address reliability needs in the area. The Placer area is very complex with both peak and off-peak transmission constraints driven by load, hydro and import patterns. Due to these factors, the Operation of this system is extremely dynamic, with multiple constraints that need to be mitigated throughout the day. [CAISO] considers all the possible reliability problems in the area as being interrelated and any solution or solutions adopted to address these needs must complement each other and assure full compliance with reliability standards. In other words, this area requires a comprehensive long-term solution to address all the concerns. [CAISO] will consider the Atlantic - Placer voltage upgrade and the Auburn battery storage project, along with other possible options in the next [CAISO] planning cycle to

¹⁰³ PG&E Protest at 22.

¹⁰⁴ *Id.* at 23.

determine what facilities PG&E should be required to construct to meet the reliability needs in this area.^{105]}

107. As noted above, the 2010 Final Transmission Plan states that CAISO will evaluate PG&E's proposed Atlantic-Placer Upgrade and Western Grid's proposed Auburn energy storage project in the next planning cycle. In addition, aside from the mere allegations, Complainants have not provided any evidence to show that CAISO stopped considering the Western Grid Project for approval before it conducted an adequate economic analysis. Accordingly, Complainants' unsupported allegations that CAISO violated the CAISO Tariff or BPM and discriminated against them with respect to Western Grid's Auburn energy storage project are without merit.

I. Application of Federal Laws and Policies and Commission Precedent

1. Complaint

108. Complainants state that, in addition to its responsibilities under the FPA, the Commission should facilitate the implementation of related federal energy laws and policies. They assert that the Energy Policy Act of 2005 (EPAcT 2005)¹⁰⁶ provides incentives to encourage "advanced transmission technologies," which are defined to include "... (10) flexible AC transmission systems; (11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels and batteries)." Complainants state that the Commission has found the Western Grid Projects to be included in the category of "advanced transmission technologies" in a recent Commission order.¹⁰⁷

109. Further, they state that the Energy Independence and Security Act (EISA)¹⁰⁸ mandates that the Commission develop and enhance projects that promote smart grid resources. Complainants believe that the Western Grid Projects would be considered smart grid resources under EISA.¹⁰⁹ In addition, Complainants argue that the Commission's proposed smart grid policy statement found that a key functionality for

¹⁰⁵ Complaint, Attachment R, Final California ISO Transmission Plan 2010, at 5.

¹⁰⁶ Energy Policy Act of 2005, Pub. L. No. 109-58, § 1223, 119 Stat. 594, 953-54 (2005).

¹⁰⁷ Complaint at 24-25 (citing Western Grid Order, 130 FERC ¶ 61,056 at P 98).

¹⁰⁸ Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. 1492 (2007).

¹⁰⁹ Complaint at 25 (citing Congressional Research Service Report on EISA, at C-13 (2007)).

smart grid technology is electric storage¹¹⁰ and that the Commission also recently acknowledged the emerging potential role of electric storage technologies and the role of non-incumbent independent transmission developers as a potential source of innovation in this area.¹¹¹ They also claim that the TTS Projects can provide critical support for renewables integration, as well as grid stability, particularly in the areas served by radial systems.

110. Finally, Complainants point to recent Commission orders, in which the Commission indicates that Regional Transmission Organizations must treat all projects proposed in the TPP alike, even if they are proposed by non-incumbent independent transmission developers.¹¹² Complainants argue that the same policy consideration is applicable here. They contend that the implementation of important emerging federal policies will be impaired if parties similar to Complainants are not permitted to compete on the level playing field contemplated by Order No. 890.

2. CAISO's Answer

111. CAISO disagrees with the Complainants' contention that the Commission should consider the "advanced transmission technologies" status of their projects in addressing this complaint. CAISO argues that although EAct 2005 directed the Commission to "encourage, as appropriate, the deployment of advanced transmission technologies," the Commission has already conditionally approved rate incentives for certain of the Western Grid Projects based on the use of technologies.¹¹³ Furthermore, CAISO argues that requiring a regional system planner to select advanced transmission technologies in its TPP would be contrary to the CAISO Tariff, if it would involve approving the projects that are not the most prudent or cost-effective. Accordingly, CAISO contends that the Complainants' suggestions go beyond the intentions of EAct 2005.

112. CAISO further asserts that by approving conditioned rate incentives for the Western Grid Projects, the Commission recognized that the use of advanced transmission technologies does not trump the role of CAISO's TPP in determining which additions or

¹¹⁰ *Id.* (citing *Smart Grid Policy*, 126 FERC ¶ 61,253, at P 40 (2009) (Proposed Smart Grid Policy Statement)).

¹¹¹ *Id.* (citing the Commission's Request for Comments Regarding Rates, Accounting and Financial Reporting for New Electric Storage Technologies, Docket No. AD10-13-000 (June 11, 2010)).

¹¹² *Id.* (citing *Central Transmission, LLC v. PJM Interconnection, L.L.C.*, 131 FERC ¶ 61,243 (2010); *Primary Power, LLC*, 131 FERC ¶ 61,015 (2010) (*Primary Power*)).

¹¹³ CAISO Answer at 143-144 (citing Western Grid Order, 130 FERC ¶ 61,056).

upgrades are needed. Accordingly, CAISO argues that consistent with the CAISO Tariff, it evaluated the Western Grid Projects in a comparable manner to other projects and did not approve the Western Grid Projects because they were not the most prudent proposals.¹¹⁴

3. Comments and Protests

113. Clear Power contends that support for the complaint follows the Commission's policies in its smart grid policy statement,¹¹⁵ FPA section 205, and Order No. 890. Clear Power argues that the Complainants' recommended proceedings will promote the use of storage as a major source of renewable resource integration.¹¹⁶ Such a decision will also sustain the integrity of the TPP, as Clear Power notes is one of Order No. 890's key guidelines. Clear Power contends that CAISO violated the CAISO Tariff and thus, FPA section 205, by depriving ratepayers of demonstrable cost savings and economic benefits.¹¹⁷ Lastly, Clear Power argues that CAISO subjected the Complainants to undue discrimination by failing to follow the CAISO Tariff in evaluating Complainants' projects. Clear Power argues that this discrimination has been CAISO's consistent course of conduct in dealing with non-incumbent independent transmission developers that have submitted projects.

4. Commission Determination

114. We find that Complainants' reliance on EAct 2005 and EISA is misplaced. EAct 2005 directed the Commission to "encourage, as appropriate, the deployment of advanced transmission technologies;"¹¹⁸ the Commission responded to this directive, in part, by making transmission rate incentives available for such advanced transmission technologies. For instance, in Order No. 679, the Commission stated that it would encourage the use of advanced technology in new transmission projects, as required by section 1223 of EAct 2005, by permitting applicants to request rate incentives on their advanced technology projects.¹¹⁹ Indeed, the Commission conditionally accepted rate incentives proposed for certain Western Grid Projects based on the use of such advanced

¹¹⁴ *Id.* at 143-45.

¹¹⁵ *Smart Grid Policy*, 128 FERC ¶ 61,060 (2009).

¹¹⁶ Clear Power Comments at 4.

¹¹⁷ *Id.*

¹¹⁸ EAct 2005, Section 1223(c).

¹¹⁹ *See Promoting Transmission Investment Through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 288-293 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

transmission technologies.¹²⁰ However, in this proceeding, the Complainants are not seeking incentives for advanced transmission technologies; rather they are alleging tariff violations and undue discrimination by CAISO. Further, the Commission has found the incentives already granted to the Western Grid Projects to sufficiently “encourage, as appropriate” advanced transmission technologies, and it has not required CAISO to implement further encouragement through tariff amendments. Accordingly, there is no basis for Complainants to allege violations or discrimination by CAISO.

115. Similarly, Complainants’ discussion of EISA is not relevant to this proceeding. EISA does not mandate that the Commission “develop and enhance projects that promote smart grid resources,” as Complainants allege. Rather, there is a general statement in section 1301, which states that “[i]t is the policy of the United States to support the modernization of the Nation’s electricity transmission and distribution system” This general statement of policy does not include any specific requirements on the Commission¹²¹ and does not modify any existing legal authority or responsibilities. Consistent with our existing authority and responsibilities, a general policy of supporting modernization can play no role in the analysis of whether the tariff violations or undue discrimination alleged in this complaint actually occurred. The Complainants’ discussion of the Commission’s proposed Smart Grid Policy Statement and Commission staff’s request for comments on storage issues is likewise irrelevant to such analysis.

116. Finally, we address Complainants’ assertion that Regional Transmission Organizations must treat all projects proposed in the TPP alike, even if they are proposed by non-incumbent independent transmission developers. Although we do not disagree with this premise generally, it is not implicated here because we do not find evidence that CAISO violated the CAISO Tariff or BPM or unduly discriminated against Complainants’ projects in the TPP. As discussed above, we find that CAISO followed the CAISO Tariff and appropriately selected projects. Similarly, Complainants cite to *Primary Power*¹²² and *Central Transmission, LLC v. PJM Interconnection, L.L.C.*,¹²³ which addressed concerns that PJM Interconnection, L.L.C.’s (PJM) tariff and Operating Agreement could preclude non-incumbent independent transmission developers from building transmission projects approved in PJM’s regional planning process or from

¹²⁰ Western Grid Order, 130 FERC ¶ 61,056 at P 97-98.

¹²¹ The only specific smart grid-related assignment to the Commission is to adopt certain smart grid interoperability standards and protocols through rulemaking pursuant to EISA section 1305(d), and this requirement is not relevant to the subject matter of the Complaint.

¹²² 131 FERC ¶ 61,015.

¹²³ 131 FERC ¶ 61,243 (2010) (*Central Transmission v. PJM*).

seeking cost of service rate treatment for such facilities.¹²⁴ Complainants here do not argue that the CAISO Tariff precludes them from building projects *approved in the TPP*, but rather that CAISO failed to follow the CAISO Tariff in evaluating their projects submitted as part of the TPP. Thus, these orders are not germane to Complainants' argument.

J. Complainants' Proposed Remedy

1. Complaint

117. Complainants request that CAISO be required to conduct proceedings to reexamine its prior findings with respect to Complainants' proposed projects.¹²⁵ Specifically, Complainants ask that these proceedings apply the provisions of the CAISO Tariff and TPP that were in effect when the TTS Projects and Western Grid Projects were originally considered. Complainants further request that: (1) any additional fact finding should only be in the context of the proceedings, i.e., any "after the fact" alternatives should be barred from consideration; (2) all assumptions and methodology be disclosed fully to all parties in the proceedings; (3) projects that are substantially similar to those proposed by Complainants not be introduced into the proceedings; (4) CAISO be required to make stakeholder notifications of intent to drop load and obtain its Governing Board approval of all such decisions resulting from such proceedings; (5) information used in the proceedings be limited to that available or potentially available to the parties as of the date of the TPP in question; and (6) CAISO be required to adhere to specific guidelines in its reexamination.¹²⁶ In addition, because they believe that time is of the essence for the development of their projects, Complainants request that the proceedings be limited to 90 days, after which Complainants' projects will be deemed approved if the proceedings are pending.¹²⁷

¹²⁴ In response, the Commission found that the existing PJM tariff and Operating Agreement permitted PJM to designate non-incumbent independent transmission developers to build approved projects and to seek cost of service rate treatment. *See Primary Power*, 131 FERC ¶ 61,015 at P 62; *Central Transmission v. PJM*, 131 FERC ¶ 61,243 at P 46, 48.

¹²⁵ Complaint at 26.

¹²⁶ The guidelines relate to the following: (1) Complainants' status as a non-PTO; (2) the introduction of additional technical or financial information by parties; (3) factors that must be considered in comparative cost analyses; (4) the non-cost benefits that should be considered by CAISO; and (5) how interim proposals should be considered against short-term solutions proposed by CAISO. *See id.* at 28-30.

¹²⁷ *Id.* at 30.

2. CAISO's Answer

118. CAISO argues that the requested remedy is not warranted because it properly followed the CAISO Tariff and other governing procedures when evaluating the Complainants' projects. Nevertheless, CAISO asserts that there are several flaws with the requested remedy. First, CAISO argues that the requested remedy could only be implemented if the Complainants were authorized by the CAISO Tariff to build reliability projects, which they are not. Second, if the Commission finds that any relevant tariff provision is unjust and unreasonable, then, pursuant to FPA section 206, the revised tariff provisions could apply prospectively only to future projects, not the projects discussed herein. Third, CAISO argues that the request to have the Complainants' projects re-evaluated using only "then-available" data admits that the request is motivated by the commercial interests of the Complainants and not the interests of California ratepayers. According to CAISO, if re-evaluation is necessary, then it should use current and updated information, as this approach would determine the most prudent project and best serve California ratepayers. Finally, CAISO disagrees with the proposal to automatically approve the Complainants' projects if they are not evaluated within 90 days, stating that the request is dictated by Complainants' own commercial interests.

3. Comments and Protests

119. Clear Power supports the requested remedy, stating that it is similarly situated, having submitted three economic transmission proposals to the 2009 Request Window.¹²⁸ Clear Power agrees with the Complainants that any CAISO proceedings resulting from the complaint be based exclusively on data that was submitted, or should have been submitted, at the time of the TPP.¹²⁹ Clear Power contends that such analysis will allow CAISO to objectively re-examine the merits of its initial decisions. Further, Clear Power argues that such proceedings will send the message to market participants that the Commission will act quickly and effectively to ensure that CAISO does not discriminate against projects proposed by non-incumbent independent transmission developers in the future.¹³⁰

120. Several protestors argue that the complaint and/or requested remedy should be dismissed. PG&E argues that there is no harm to Complainants by CAISO's decision to

¹²⁸ Clear Power states that CAISO also placed its projects in a "study mode" while simultaneously evaluating and later approving competing projects submitted by incumbent developers as part of the large generator interconnection procedures. Clear Power Comments at 2.

¹²⁹ *Id.* at 3.

¹³⁰ *Id.*

approve its projects because PG&E maintains the right to build reliability projects in its service area.¹³¹ SDG&E argues that the Complainants fail to identify how CAISO has violated statutory standards or regulatory requirements, as well as the material adverse effects the Complainants claim to have suffered.¹³² NCPA and Six Cities argue that the Commission should not allow any previously-rejected projects to be “deemed approved” without a complete CAISO evaluation process that is based on circumstances that exist today, rather than that circumstances claimed to have existed in previous years; permitting a remedy based on the fiction that “nothing has changed” would not result in projects that are necessary or cost-effective for the CAISO transmission system. If the Commission chooses to grant the Complainants’ request to reopen the 2009 and 2010 TPP, SDG&E requests that the Commission conduct such proceedings according to Order No. 890’s planning principles, instead of the Complainants’ proposed guidelines,¹³³ as well as the Commission’s recent RTPP Order.¹³⁴

4. Commission Determination

121. We will deny Complainants’ requested remedy. We disagree with Complainants’ argument that CAISO’s decisions with respect to the TTS Projects and Western Grid Projects in the TPP granted an undue preference or advantage to competing projects proposed by PTOs and subjected Complainants to undue prejudice or disadvantage, in violation of FPA section 205(b). As discussed above, Complainants have not shown that CAISO violated the CAISO Tariff, BPM, or TCA while evaluating the TTS Projects and the Western Grid Projects in its 2008-2009 and 2009-2010 TPP, and while considering TTS’s application to become a PTO. Complainants have not presented sufficient evidence to demonstrate that CAISO discriminated against the TTS Projects and Western Grid Projects in favor of those competing proposals submitted by incumbent PTOs. Neither have they shown that CAISO’s actions are part of a larger pattern of discriminatory actions against non-incumbent independent transmission developers.

122. Contrary to Complainants’ arguments, CAISO submitted evidence to illustrate that its decision-making process reflected objective analysis; was consistent with the CAISO Tariff; and was based on approving the most prudent and cost-effective long-term

¹³¹ PG&E Protest at 4. SDG&E concurs, stating that even if the Complainants’ allegations were found to be true, the PTO with the distribution service territory would still hold the obligation to construct and own the project, as CAISO does not retain the authority to require PTOs to execute transmission service agreements. SDG&E Comments at 16.

¹³² SDG&E Comments at 6.

¹³³ *Id.*

¹³⁴ *Id.* at 17.

projects that maintain reliability for the region. In its answer, CAISO provides a detailed project-by-project summary of its analysis and the considerations used in evaluating Complainants' projects against competing solutions. Moreover, CAISO points out that, pursuant to section 24.1.2 of the CAISO Tariff, even if CAISO had accepted certain of the TTS Projects or Western Grid Projects in the TPP as the most prudent alternatives, CAISO would have been required to direct the incumbent PTO to own and install such reliability-driven projects. Thus, with respect to the TTS Projects, PG&E would be responsible for installing the relevant FACTS device and deciding whether to enter into service contracts or leases with TTS for the FACTS device. Accordingly, Complainants have not described how they have been harmed by CAISO's decisions with respect to their projects, or demonstrated that CAISO's decisions were motivated by or resulted from an undue preference for projects proposed by incumbent PTOs.

123. Because we find that Complainants' failed to demonstrate that CAISO's actions and existing provisions are unjust, unreasonable, unduly discriminatory or preferential, we will deny Complainants' requested remedy on that basis. Thus, we will not examine the merits of Complainants requested remedy or guidelines at this time.

The Commission orders:

Complainants' complaint is hereby denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.